

**TOWN OF DAVIE
REGULAR MEETING
SEPTEMBER 17, 2003
7:00 P.M.**

1. PLEDGE OF ALLEGIANCE

The meeting was called to order at 7:05 p.m. and was followed by the Pledge of Allegiance which was led by Barbara Tilley.

2. ROLL CALL

Present were Mayor Truex, Vice-Mayor Starkey and Councilmembers Crowley, Hubert and Paul. Also present were Town Administrator Willi, Town Attorney Kiar and Town Clerk Muniz recording the meeting.

3. PRESENTATION

3.1. Remembrance of September 11th - Vice-Mayor Starkey

Vice-Mayor Starkey read a letter and presented an American flag which was given to the Town by a resident and member of the Armed Forces still serving overseas. She stated that the flag had been flown off the Horn of Africa and indicated that the flag would be displayed in an appropriate place within the Town.

3.2 Hiatus Road Improvements - GL Homes

This item was discussed later in the meeting.

Councilmember Paul announced that the Broward County Commission voted to purchase a 60-acre parcel on Orange Drive to be added onto Vista View. She thanked the Commission and all those involved in bringing this issue to fruition. Mr. Kiar responded that the matter was abated until September 30th and would seek to have the abatement of the lawsuit continued beyond September 30th and will seek a dismissal.

Mayor Truex advised that item 5.19 was requested to be tabled to October 1, 2003.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 5.13 was requested to be tabled to October 15, 2003.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that item 7.8 was requested to be tabled to October 1, 2003.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

Mayor Truex advised that items 7.12, 7.13, 7.14, 7.15, 7.16, 7.17 and 7.18 were requested to be tabled to October 1, 2003.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table. In a voice vote, all voted in favor. (Motion carried 5-0)

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Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to add item 3.2. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Crowley made a motion, seconded by Councilmember Hubert, to add item 10.5. In a voice vote, all voted in favor. (Motion carried 5-0)

4. PUBLIC HEARING - BUDGET

Ordinances - Second and Final Reading

- 4.1. **MILLAGE RATE - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ESTABLISHING THE MILLAGE RATE TO BE LEVIED FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2003, AND ENDING SEPTEMBER 31, 2004. {Approved on First Reading September 3, 2003 - all voted in favor}**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Vice-Mayor Starkey made a motion, seconded by Councilmember Hubert, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

- 4.2. **BUDGET - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING THE BUDGET FOR THE TOWN OF DAVIE FOR THE FISCAL YEAR 2004. {Approved on First Reading September 3, 2003 - all voted in favor}**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Shantelle Herrera, Family Central, thanked Council for their contribution to Family Central.

Beryl Glandsburg, First Call for Help of Broward, thanked Council for their support.

Mayor Truex closed the public hearing.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Resolution

- 4.3. **FINAL MILLAGE RATE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ESTABLISHING THE FINAL MILLAGE RATE TO BE LEVIED FOR VOTER APPROVED DEBT SERVICE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2003, AND ENDING SEPTEMBER 30, 2004.**

Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Vice-Mayor Starkey made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes;

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Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes.
(Motion carried 5-0)

Mayor Truex advised that item 7.18 was tabled until October 1, 2003 and should have been tabled to December 17, 2003.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to reconsider. In a voice vote, all voted in favor. (Motion carried 5-0)

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to table to December 17, 2003. In a voice vote, all voted in favor. (Motion carried 5-0)

5. APPROVAL OF CONSENT AGENDA

Minutes

- 5.1. July 2, 2003 (tabled from September 3, 2003)
- 5.2. August 6, 2003 - Regular Meeting
- 5.3. August 18, 2003 - Workshop Meeting

Proclamations

- 5.4. Fire Prevention Week (October 5-11, 2003)
- 5.5. Lights on Afterschool Day (October 9, 2003)
- 5.6. National Breast Cancer Awareness Month (October 2003) and National Mammography Day (October 17, 2003)

Home Occupational Licenses

- 5.7. Advanced Elevator Service, 14011 SW 20 Street
- 5.8. Southern Communication, Inc., 14820 SW 27 Street

Resolutions

- 5.9. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2003-233 THE BID FOR MOTOROLA MOBILE RADIOS, UTILIZING BROWARD COUNTY CONTRACT #D1TL1007, TO BE FUNDED FROM RESCUE PUMPER ACCOUNT. (\$60,040.55)
- 5.10. **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING
R-2003-234 THE BID FOR UP TO NINE (9) TYPE 1-MEDIUM DUTY FIRE RESCUE AMBULANCES, FROM WHEELED COACH INDUSTRIES, INC.; ON A FIVE (5) YEAR PURCHASING AGREEMENT. (\$379,578)
- 5.11. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-235 AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN THE DAVIE RODEO ASSOCIATION, INC. AND THE TOWN OF DAVIE, FLORIDA FOR THE RENTAL OF THE BERGERON RODEO GROUNDS OF DAVIE, FLORIDA. (waiver of fee - \$1,500)

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- 5.12. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-236 AUTHORIZING THE APPROPRIATE TOWN OFFICIALS TO RENEW THE
INTERLOCAL AGREEMENT WITH BROWARD COUNTY TO PROVIDE FOR
DELIVERY OF EMERGENCY MEDICAL AND FIRE PROTECTION SERVICES
IN THE PINE ISLAND RIDGE AREA; PROVIDING FOR TERMINATION, AND
PROVIDING FOR AN EFFECTIVE DATE. (\$463,050 plus revenues for special
services)
- 5.13. **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
AUTHORIZING THE MAYOR TO EXECUTE A THREE YEAR LEASE
AGREEMENT WITH GE CAPITAL TO PROVIDE THE TOWN WITH A NEW
TELEPHONE SYSTEM AND A MAINTENANCE CONTRACT WITH
TELESWITCH TECHNOLOGIES, INC.
- 5.14. **CONDITIONS AMENDMENT** - A RESOLUTION OF THE TOWN OF DAVIE,
R-2003-237 FLORIDA, AMENDING THE CONDITIONS OF APPROVAL ASSOCIATED
WITH RESOLUTION NO. R-2000-210; AND PROVIDING AN EFFECTIVE
DATE. (DG 7-4-03, Long Lake Estates II Plat, 3201 Hiatus Road)
- 5.15. **PLAT REVISION** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-238 AUTHORIZING AN AMENDMENT TO THE RESTRICTIVE NOTE OF THE
"ICW NORTH PLAT", AND PROVIDING AN EFFECTIVE DATE. (DG 8-2-03,
ICW North, 4300 Weston Road)
- 5.16. **BOUNDARY PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-239 APPROVING A BOUNDARY PLAT KNOWN AS BLACKSTONE CREEK AND
AUTHORIZING THE MAYOR AND TOWN CLERK TO ACKNOWLEDGE
SUCH APPROVAL BY AFFIXING THE MAYOR'S SIGNATURE AND THE
TOWN SEAL TO SUCH PLAT; AND PROVIDING AN EFFECTIVE DATE. (P 7-
3-02, Black Stone Creek, 3151 SW 154 Avenue) *Planning and Zoning Board
recommended approval*
- 5.17. **SUBDIVISION PLAT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA,
R-2003-240 APPROVING A SUBDIVISION PLAT KNOWN AS PARKSIDE ESTATES OF
DAVIE AND AUTHORIZING THE MAYOR AND TOWN CLERK TO
ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THE MAYOR'S
SIGNATURE AND THE TOWN SEAL TO SUCH PLAT; AND PROVIDING AN
EFFECTIVE DATE. (P 8-1-02, Parkside Estates of Davie, 8901 Orange Drive)
*Planning and Zoning Board recommended approval based upon the applicant providing
pertinent information about the historical building to staff before it goes to the Town
Council*

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- 5.18. **AGREEMENT RENEWAL - A RESOLUTION OF THE TOWN OF DAVIE,**
R-2003-241 **FLORIDA RENEWING AN AGREEMENT BETWEEN THE TOWN OF DAVIE
AND THE DAVIE SCHOOL FOUNDATION, INC.; AND PROVIDING AN
EFFECTIVE DATE. (\$15,000)**

Site Plans

- 5.19. SP 10-7-02, Warren Henry/Regency Square, 4801-4991 SW 148 Avenue (PUD)
(tabled from September 3, 2003) *Site Plan Committee recommended approval with the
conditions that the applicant send a letter to the president of the homeowner's association
[Chelsea Homeowners' Association] stating the date when this item was to be reviewed by
the Town Council; and that the lighting levels on the east side of the buildings be at the
lowest possible levels that the Police Department would allow after 9:00 p.m.*
- 5.20. MSP 11-1-01, Charleston Oaks, 14500 SW 26 Street (A-1) *Site Plan Committee
recommended approval based on the applicant offering optional marketing material for
barns; reconfigure or customize a plan in order for Lot 34 to work; add the gazebo to the
site plan and the architectural plan; make the entrance on 26th Street a non-vehicular
emergency access and a pedestrian/equestrian access point (which would entail linking
sidewalks); and reference that the plans being used for this development are from Grove
Creek*

Councilmember Hubert requested that item 5.14 be removed from the Consent Agenda.
Councilmember Paul requested that items 5.16 and 5.20 be removed.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to approve
the Consent Agenda without items 5.14, 5.16 and 5.20. In a voice vote, all voted in favor.
(Motion carried 5-0)

6. DISCUSSION OF CONSENT AGENDA ITEMS

5.14 & 3.2 Councilmember Hubert questioned why the project would take so long to
complete. Kevin Ratterree, representing GL Homes, explained that the proposed design and
aesthetic improvements for Hiatus Road would help with traffic by incorporating curbing and
landscaping on each side of the road to slow traffic. He stated that GL Homes was not required
to install pavers, a median or curbing and landscaping on each side of the road, but were doing
this in an effort to improve traffic conditions. Mr. Ratterree indicated that the length of time
could be attributed to permits from various agencies that would need to be garnered.

Vice-Mayor Starkey thanked Mr. Ratterree for his efforts to calm traffic on Hiatus Road.
She disclosed that she was in the process of purchasing a home within this community and she
had asked Mr. Kiar if there would be a conflict of interest if she voted on the matter. Mr. Kiar
advised that since there would be no special gain or loss and Vice-Mayor Starkey received the
same rights as the other homeowners, there would not be any form of conflict.

Vice-Mayor Starkey indicated that prior to her purchase and her election, the density in
the community was approved as well as the minimal road improvements that were required.
She stated that these improvements would not only be made to Hiatus Road, but also on 26th,
58th, Shotgun and other locations. Mr. Ratterree indicated that the improvements to Hiatus
Road were being done concurrently with the entry lanes to the development.

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Councilmember Hubert asked how long the improvements would take. Mr. Ratterree indicated that it would be 12 months.

Mayor Truex thanked GL Homes and felt that the proposed changes would be a 200% improvement to Hiatus Road.

Councilmember Crowley questioned the timeframe on the Orange Drive and Hiatus Road improvements. Mr. Ratterree indicated that there had been discussion regarding the equestrian trail to the west side of the right-of-way and stated that the same request for an extension had been made for both areas at the same time.

Mayor Truex asked if anyone wished to speak on this issue.

Linda Greck stated that she was not clear as to what was before Council at this time. Mayor Truex stated that although GL Homes was not required to make the improvements, the agreement would allow them more time to complete those improvements. Ms. Greck stated that she felt the improvements would be a vast improvement over what currently existed, but did not think the traffic calming mechanisms would make a tremendous difference.

Vice-Mayor Starkey made a motion, seconded by Councilmember Hubert, to approve item 5.14 along with the permit for the new improvements. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

5.16 Councilmember Paul indicated that there were three issues that she wanted clarified prior to approval. She stated that there was to be an 80 foot entrance on Shotgun Road, that 31st would only be an emergency exit and that the plat note would decrease from 40 homes to 32. Bill Laystrom, presenting the petitioner, indicated in the affirmative. Councilmember Paul indicated that if this property "came through" as an open space initiative piece, it should be noted on the plat that a horse connection would be provided on the entire south side of the property. Mr. Laystrom agreed.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to approve with the condition that in the event that this issue became an open space initiative piece, it should be stated on the plat that it would allow for a horse connection on the entire south side of the property. In a voice vote, all voted in favor. (Motion carried 5-0)

5.20 Councilmember Paul stated that this property was in the heart of Oak Hill and indicated that the amended designs were Florida vernacular with horse stables. Bill Laystrom displayed the new design.

Councilmember Paul made a motion, seconded by Councilmember Hubert, to approve with the following conditions: to expand the horse trail on 26th Street from 10 feet to 12 feet and keep the sidewalks at 4 feet; an adjustment will need to be made to ensure that the horses and bikes could maneuver the roundabouts; to add a horse crossing with signage and stripping along 142nd and 26th and 145th and 26th; move the equestrian trail on 148th with 5 foot landscaping on either side of the trail, leaving those sidewalks at four feet as well. She added that as an option, should the school system decide to make the 142nd entrance a bus stop, there should be a shelter.

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Councilmember Paul stated that she had concerns regarding the roads and felt the road was overbearing and not conducive to the Town's rural atmosphere. She advised that she would like to see a 40 foot road rather than a 50 foot road to increase the green space and reduce the asphalt. Mr. Willi raised the possible conflict with the Code on the sidewalk reduction from five feet to four feet and stated that the Code had a minimum of five feet.

Mr. Kiar requested clarification from Mr. Laystrom regarding the pending litigation with Southern Homes of Davie and whether the lawsuit would be dismissed once the site plan was approved for the Flamingo site and Charleston Oaks site. Mr. Laystrom explained that when he appeared before Council on October 16th, his client would settle the lawsuit if the Town would amend its ordinance which was done. He stated that he had requested that there be a provision to provide an expedited process of the site planning and cooperation with all other governmental entities; however, the Town's counsel had indicated that this was not the Town's position. Mr. Laystrom stated that it was their hope that the building permits be processed fairly and expeditiously.

Mayor Truex asked special counsel Mike Burke if the lawsuit had been dismissed. Mr. Burke explained the genesis of the lawsuits, stating that both lawsuits asked the courts to compel the Town to process site plans other than the laws as existed before the rural lifestyle ordinance was adopted. He felt that the deal that was made pertained to the site plan being processed which it had and he did not think the lawsuits could be brought forward as the lawsuits did not address building permits or other governmental entities. Mr. Burke stated that he did not think this issue pertained to whether Council should approve or not approve the site plan and if this complied with the Code, he suggested approval.

Mayor Truex asked Mr. Laystrom if the petitioner would agree to dismiss the lawsuit and staff would be directed that every effort would be made to expedite their applications. Hector Garcia asked if Development Service Director Mark Kutney had been assigned to be the point person. Mr. Willi responded in the affirmative.

In a voice vote, all voted in favor. (Motion carried 5-0)

Mr. Garcia advised that the lawsuit would be dismissed. Mr. Laystrom indicated that they would sign the agreement prepared by Mr. Burke. Mr. Kutney added that the applicant would always have the option under the Cost Recovery Program of managing one of the Town's consultants.

7. PUBLIC HEARING

Ordinances - Second and Final Reading

- 7.1. **ORDINANCE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,**
2003-36 **FLORIDA, AMENDING ORDINANCE 74-33 ESTABLISHING THE TOWN OF DAVIE'S PERSONNEL RULES AND REGULATIONS AND AMENDING ALL SUBSEQUENT ORDINANCES AMENDING SAID ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading September 3, 2003 - all voted in favor with Vice-Mayor Starkey dissenting}**

Town Clerk Muniz read the ordinance by title.

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Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Human Resource Director Mark Alan indicated that staff had been provided with an amendment allowing the personnel rules under Rule 1, Section 10, to retain language required by Broward County to receive certain grant monies regarding equal employment opportunity. He requested that the motion be made to include that additional amendment.

Mayor Truex asked about the language in Rule 1, Section 6, regarding the Town Administrator's ability to create new classifications. Mr. Alan indicated that this was existing language. He also stated that the Town Administrator had the authority to create new classifications which would then be brought before Council for approval.

Mayor Truex stated that he was still not in agreement with the vacation time being rolled over at the end of the year.

Mayor Truex asked about the language in Rule IV which granted the Town Administrator power to authorize an increase above the maximum under exceptional circumstances without Council's approval. Mr. Alan stated that the current rules limited the Town Administrator to a one step increase per year. He stated that this new language would allow flexibility and allow an increase to take place more often than once. Mr. Willi indicated that this would allow an employee to receive a merit increase above step 7. Mayor Truex thought that this should not be permitted without Council approval.

Vice-Mayor Starkey agreed that these types of issues should be brought before Council and felt that this issue had been decided in the last meeting. Mr. Alan stated that there had been occasions where this issue had taken place without Council approval. Vice-Mayor Starkey stated that the issue should be brought back before Council with the recommendation from the Town Administrator as to justification.

Mayor Truex inquired about the rule applying to salaried employees being paid above 40 hours in the event of a disaster. Mr. Alan stated that according to FEMA, in the event of a disaster, the Town would need to provide a rule stating that the salaried employees would be eligible for overtime pay.

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to approve subject to changing the language in Section 5 applying to employees receiving pay raises above the maximum, subject to Council approval as well as inclusion of the language in Rule I, Section 10. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Paul - yes. (Motion carried 4-1)

- 7.2. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE VIII, SECTION 12-238(J)(9) THEREOF RELATING TO BILLBOARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading September 3, 2003 - all voted in favor with Councilmember Paul dissenting}**

Earlier in the meeting, Town Clerk Muniz read the ordinance by title.

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Special Counsel Mike Burke advised Council that he was present to provide answers to any questions relating to the annexation agreement with Jolmy Enterprises and the billboard ordinance.

Mayor Truex asked what criteria would be used to decide where the three billboards would be placed. Mr. Burke suggested that if the Town was going to allow the three additional billboards and more than three applicants applied, there be a period of time to submit applications to comply with the established criteria. He also suggested that staff certify which applicants met the criteria established by the ordinance and if more than three applicants met the criteria, the one selected should be chosen by lottery.

Mayor Truex stated that interested parties had come forward with gratuitous offers to charities and asked if the Town would be forbidden from accepting those offers. Mr. Burke responded that he was not aware of a case that discussed that specific issue. He felt that there would be risks involved and could become a vulnerable issue for the Town. Mayor Truex asked if the sign locations could be decided based on industrial versus another commercial category. Mr. Burke stated that the Town could establish criteria of where the signs would be permitted.

Councilmember Paul asked if it was staff's suggestion to table the item until criteria was established. Mr. Burke suggested that if it was Council's wish, he would prepare some proposed changes to the ordinance to establish the selection process.

Councilmember Hubert asked if the proposed change for billboard height to 65 feet and 90 feet included all billboards, as well as Jolmy's. Mr. Burke stated that the Jolmy issue related to the proposed annexation agreement. He indicated that upon Jolmy's annexation, they were granted permission to have three billboards allowed by the County Code. Mr. Burke stated that the sizes of the billboards were determined by the County's regulations that existed at the time of annexation. He advised that the County Code's provision allowed for no more than 35 feet above the roads that provided ingress and egress to Jolmy's property. He stated that Jolmy was seeking to amend the annexation agreement to be governed by the Town's regulations with respect to the height size which was 60 feet.

Councilmember Paul asked that if the agreement was approved, would the ordinance have to specify six new billboards instead of three. Mr. Burke stated that the Town would not have to indicate six as the ordinance relates to new billboards.

Mayor Truex asked if it was enforceable and legal to require contributions for placement of billboards. Mr. Burke explained that the current ordinance provided that the criteria to be considered for a permit were that the applicant had to agree to donate a percentage to a non-profit organization that serviced the Town. He felt that no case fully addressed this issue, but that if challenged it was an issue that certainly could be raised. Councilmember Paul asked that if that issue was deemed to be illegal could the courts halt those contracts or were those contracts solid. Mr. Burke stated that he did not have the answer, but would look into it.

Mr. Burke suggested that Council establish the criteria for placement of the sites and offered his staff's assistance in handling the process of insuring that the applicants met the criteria. He indicated that, he would be willing to amend the Jolmy agreement with respect to providing the Town's signage regulations as opposed to the County's.

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Vice-Mayor Starkey expressed concern with the ordinance as it gave site specifics. She stated that she was in favor of denying the item so that a completely new ordinance could be drafted based on the advice of Mr. Burke. Councilmember Paul felt that it could be tabled with the consideration that there be no site specific language. Councilmember Crowley stated that he would be in favor of tabling as he was curious about some of the locations.

Councilmember Hubert raised concerns about the Jolmy agreement stating that Jolmy should be given the same consideration as others in the Town and not be required to abide by the County's regulations. She felt that the Town should do the right thing in allowing Jolmy to place billboards at the height of 65 feet. Mayor Truex objected as he felt that Jolmy would be getting something they were not entitled to. He stated that he was not in favor of going forward without knowing what the criteria would be. Mayor Truex added that he was not satisfied with the ordinance in its current form and wanted input from Mr. Burke.

Mayor Truex opened the public hearing portion of the meeting.

Steve Moody, representing Jolmy Enterprises, asked Council to approve what was in the "spirit of the agreement". He stated that it was Jolmy's desire to receive the same treatment given to other Davie property owners.

Mayor Truex asked Mr. Moody if the Town permitted Jolmy to use the Town's criteria, would his client build three billboards at 65 feet. Mr. Moody responded that Jolmy would need to request a variance since the 65-foot billboards would not be sufficient for the fly-over and overpasses.

Vice-Mayor Starkey asked Mr. Moody if this was a time-sensitive matter. Mr. Moody responded by saying that he felt it was a time-sensitive matter since the annexation agreement was signed in 1996 and he felt there may be a statute of limitations issue or a possible breach of the annexation agreement. Vice-Mayor Starkey clarified that the Town had never denied Jolmy the right to erect the billboards at 35 feet. She indicated that Council would review the issue based on legal, sound advice given by special counsel.

Mayor Truex closed the public hearing.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to table to November 5, 2003. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - no; Councilmember Crowley - yes; Councilmember Hubert - no; Councilmember Paul - yes. (Motion carried 3-2)

7.3. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,**
2003-37 **FLORIDA, APPROVING PETITION ZB (TXT) 7-3-03 PORTABLE STORAGE**
UNITS TO AMEND CHAPTER 12 OF LAND DEVELOPMENT CODE BY
ADDING REGULATIONS TO ADDRESS THE USE OF PORTABLE STORAGE
UNITS, AMENDING SECTION 12-33(A) ENTITLED "ACCESSORY USES AND
STRUCTURES", AMENDING SECTION 12-503 ENTITLED "DEFINITIONS";
PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY, PROVIDING
FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN
EFFECTIVE DATE. (Portable Storage Containers) {Approved on First Reading
September 3, 2003 - all voted in favor with Mayor Truex and Vice-Mayor
Starkey dissenting}

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Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Hubert felt that the use of storage units would not be a negative issue in that it would only be a temporary situation.

Vice-Mayor Starkey stated that she did not like the units and wanted to see additional language to restrict them. She stated that in the event of an emergency, there should be language that would enforce the temporary use of the units. Mr. Kutney indicated that he understood Vice-Mayor Starkey's concerns and felt that the language provided for a shorter period of time.

Vice-Mayor Starkey stated that she wanted extension on time limits to be granted by Council and not staff. She added that fines should be imposed for units that had not received a permit and there should be language pertaining to that issue in this ordinance. Mr. Willi stated that the ordinance required a building permit be applied for and that a penalty fee would be imposed.

Councilmember Hubert questioned how long the permit process would take. Mr. Kutney indicated that it could be completed within a 48-hour timeframe. Councilmember Hubert voiced her concerns stating that in an emergency situation, 48 hours was too long of a period to wait for a permit. Vice-Mayor Starkey suggested that in that event, there were places to rent space for those situations.

Councilmember Paul felt that staff needed to be given some leeway to handle these items and not be required to bring everything before Council. She felt that this ordinance was a good start and gave staff the ability to take care of the issues as they arise.

Councilmember Hubert made a motion, seconded by Councilmember Paul, to approve. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Starkey - no; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 3-2)

7.4. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE,**
2003-38 **FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF DAVIE, AMENDING SECTION 12-32(B), ENTITLED "TABLE OF PERMITTED USES"; PROVIDING FOR APPROPRIATE ZONING DISTRICTS FOR ADULT ARCADE AMUSEMENT CENTER; AND AMENDING SECTION 12-34 ENTITLED "STANDARDS ENUMERATED"; PROVIDING FOR DETAILED REGULATIONS REGARDING THE LOCATION AND OPERATION OF SUCH USES; AMENDING SECTION 12-503, ENTITLED "DEFINITIONS"; PROVIDING FOR A DEFINITION OF ARCADE OR GAME ROOM AND ADULT ARCADE AMUSEMENT CENTER; PROVIDING FOR INTENT; PROVIDING FOR REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading September 3, 2003 - all voted in favor with Councilmember Crowley dissenting}**

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Town Clerk Muniz read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

William DiPetrillo, representing an existing arcade, asked if they would be grandfathered in. Mr. Kutney indicated that existing operators or establishments that had submitted their applications would not be affected as long as they continued in the current configuration.

Paulette Baer, Monte Carlo Amusement Centers, asked if her center would be grandfathered in and permitted to remain open after 11:00 p.m. Mr. Kutney indicated that the proposed Code limited the hours of operation past 11:00 p.m. and prior to 9:00 a.m. He further indicated that those hours would not apply to applicants that had already submitted their applications.

Mayor Truex closed the public hearing.

Councilmember Paul made a motion, seconded by Vice-Mayor Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Ordinances - First Reading (Second and Final Reading to be held October 1, 2003)

7.5. **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN; AMENDING CHAPTER 4 ENTITLED ANIMALS; PROVIDING FOR DEFINITIONS FOR WILD ANIMALS; AMENDING SECTION 12-32, ENTITLED "TABLE OF PERMITTED USES"; PROVIDING FOR APPROPRIATE FOR ZONING CATEGORIES FOR KEEPING OF WILD ANIMALS; AMENDING SECTION 12-34(B) ENTITLED ANIMALS; PROVIDING FOR REGULATIONS FOR THE CARE AND MAINTENANCE OF WILD ANIMALS; AND AMENDING SECTION 12-503 DEFINITIONS PROVIDING FOR DEFINITIONS FOR WILD ANIMALS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from September 3, 2003)**

Town Clerk Muniz read the ordinance by title. Mayor Truex announced that a public hearing would be held on October 1, 2003.

Mayor Truex opened the public hearing portion of the meeting.

Mr. Kutney spoke of a recent meeting with officers of the Florida Fish and Wildlife Commission and advised that Florida residents had a constitutional right to have wild animals of the various classes. He stated that the Florida Fish and Wildlife Commission had offered their assistance in helping the Town monitor and control these uses. Mr. Kutney suggested that because of these discussions and with the assistance from the Florida Fish and Wildlife Commission, the ordinance may not even be necessary.

Jeffrey Harrod, Vanishing Species, felt that the ordinance may open the Town up to potential lawsuits. He offered his assistance in working with the Town to provide a solution and recommended that the ordinance be withdrawn.

Mayor Truex closed the public hearing.

Councilmember Paul made a motion to withdraw.

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Vice-Mayor Starkey felt that the ordinance provided controls in the event of a disaster or other emergency and it would allow the Town to monitor where these animals were without prohibiting the rights of residents. Mr. Harrod indicated that if the ordinance was approved, everyone in the Town that currently had these types of animals would have to be grandfathered in. Mr. Kutney felt that in the event the issue was challenged there could be repercussions and stated again that the Florida Fish and Wildlife Commission would be available to assist the Town. Mr. Harrod indicated that two other municipalities had passed similar ordinances and the District Court of Appeals ruled against them costing them several hundred thousand dollars.

Councilmember Hubert seconded the motion to withdraw.

Vice-Mayor Starkey asked if Mr. Kiar had worked on this issue. Attorney Andre Parke clarified Mr. Harrod's statement that the Fourth District Court of Appeals overturned the two other municipalities' ordinances.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Mr. Willi advised that there was a zoning in progress concerning this issue and requested that Council vote on the withdrawal of the zoning in progress.

Councilmember Paul made a motion, seconded by Mayor Truex, to withdraw the zoning in progress. In a voice vote, all voted in favor. (Motion carried 5-0)

- 7.6. **FEE SCHEDULE - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE CURRENT FEE SCHEDULES FOR THE DEVELOPMENT SERVICES DEPARTMENT INCLUDING THE PLANNING AND ZONING DIVISION, BUILDING DEPARTMENT, AND ENGINEERING DEPARTMENT OF THE TOWN OF DAVIE BY ADDING APPLICATION AND SUPPLEMENTAL REVIEW FEES FOR WIRELESS COMMUNICATIONS FACILITIES; BUILDING PERMIT FEES; LANDSCAPING PERMIT FEES; AND ENGINEERING PERMIT FEES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.** (tabled from September 3, 2003)

Town Clerk Muniz read the ordinance by title. Mayor Truex announced that a public hearing would be held on October 15, 2003.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Mayor Truex asked how the fee amount was derived and whether it was based on a comparison of other communities or based on actual costs. Town Engineer Larry Peters indicated that the fee was based on both issues.

Councilmember Paul made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

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- 7.7. **VACATING RIGHT-OF-WAY** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING PETITION VA 5-1-03, VACATING RIGHT-OF-WAY WITHIN SECTION 28, TOWNSHIP 50 SOUTH, RANGE 41 EAST AND WITHIN THE PLAT KNOWN AS THE NEW WORLD PLAT (166-37); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (VA 5-1-03, Morgan/Nova Southeastern University, 7600 SW 36 Street (to vacate 1 - two portions of the right-of-way on SW 76 Avenue, and 2 - a portion of the 10 foot utility easement along SW 35 Street previously dedicated per plat "New World Plat" and realigning said easement) *Planning and Zoning Board recommended approval*

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Town Clerk Muniz read the ordinance by title. Mayor Truex announced that a public hearing would be held on October 1, 2003.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Mayor Truex clarified that 76th Avenue would be closed upon completion. Mr. Peters responded in the affirmative.

Vice-Mayor Starkey disclosed that she had spoken to John Santulli and members of Nova Southeastern University regarding this issue.

Councilmember Crowley made a motion, seconded by Vice-Mayor Starkey, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Ordinances - First Reading/Quasi Judicial Items (Second and Final Reading to be held October 1, 2003)

7.8. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 12-2-02, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM P.U.D. (COUNTY), PLANNED UNIT DEVELOPMENT DISTRICT TO B-3, PLANNED BUSINESS CENTER DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 12-2-02, Town of Davie, 4703 SW 148 Avenue) (tabled from September 17, 2003) *Planning and Zoning Board recommended approval*

This item was tabled earlier in the meeting.

7.9. **REZONING** - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING ZB 5-1-03, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM R-5, LOW MEDIUM DWELLING DISTRICT TO R-3, LOW DENSITY DWELLING DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 5-1-03, Khavanin/Zarbafi, 5150 South Pine Island Road) *Planning and Zoning Board recommended approval*

Town Clerk Muniz read the ordinance by title. Mayor Truex announced that a public hearing would be held on October 1, 2003.

Mr. Kiar read the rules of evidence and swore in the witnesses. Planning and Zoning Manager Fernando Leiva read the planning report.

Gus Khavanin, representing the petitioner, agreed with staff's recommendations.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Crowley disclosed that he spoke to the engineer of record.

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Mayor Truex asked if the applicant needed both variances and questioned why the applicant was requesting a more restrictive zoning. Mr. Khavanin indicated that he wanted to be consistent with the surrounding neighborhood.

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Quasi Judicial Items

- 7.10. **VARIANCE** - V 5-2-03, Progressive Development Group, Inc./Exxon Mobil Fuel Marketing Company, 2399 South University Drive (1 - to reduce the lot area from 43,450 square feet to 40,057 square feet; 2 - to reduce the distance from the proposed fuel pump islands to a residential property from 250 feet to 25 feet; 3 - to reduce the distance to another gas station from 250 feet to approximately 200 feet; and 4 - to reduce the landscape buffer adjacent to the commercial property to the north from 10 feet to 4.9 feet) (tabled from September 3, 2003) *Planning and Zoning Board recommended the following: 1 - approval subject to working with the adjacent property owners to provide landscaping on the other side of the access road; 2 - denial; 3 and 4 approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Leiva read the planning report.

Todd Pressman, representing Mobil Oil, displayed several pictures that depicted the existing building, the proposed building that showed changes such as the removal of the car wash and the proposed landscaping that would buffer the adjacent property owners from the fuel pumping stations. He indicated that he met with several members of the homeowner's association to dispel their concerns regarding the location of the pumps.

Mayor Truex asked why the applicant was requesting a variance to 25 feet if they never intended to place the pumps within 25 feet of the adjacent property owners. Mr. Pressman indicated that this was due to an error in the calculation as it was done from the lot line of the property and the nearest residential property and not the placement of the pumps. He indicated they would be located quite some distance from the property line. Mr. Pressman stated that the homeowner's association voted unanimously to support these variance requests.

Councilmember Hubert asked where the holding tanks were going to be located. Mr. Pressman indicated that the tanks would be located in the front of the building. Wilson Abreu, Progressive Development Group, indicated that the original plans had been revised to move the tanks to the front of the building due to concerns from neighboring residents. Councilmember Hubert asked if the old tanks would be removed. Mr. Wilson indicated in the affirmative.

Councilmember Crowley asked Mr. Pressman if he was in receipt of any correspondence from the homeowner's association. Mr. Pressman indicated that he knew of two residents who had attended the Planning and Zoning Board meeting who were in support of the variances.

Mr. Pressman entered a rendering of the site into the record as Exhibit A.

Councilmember Crowley asked if there would be a car wash. Mr. Pressman indicated that the car wash would be removed.

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Mayor Truex asked Mr. Kiar if the site plan representations were binding on the applicant. Mr. Kiar asked the applicant if he was making voluntary binding commitments. Mr. Pressman indicated in the affirmative and stated that all issues had been discussed and approved in great detail by Mobil Corporate. He indicated that every issue brought before Council was to be the elements of the site plan submitted.

Mr. Kiar opened the public hearing portion of the meeting.

Joe Cozner, 4451 SW 77 Avenue, voiced concern with the proximity of the pumps to the residential properties objecting to the change to 25 feet. He stated his objection to the noise generated by this station as well as possible fire hazards. Mr. Leiva clarified that the 25 feet referred to in the report was the distance between the lot line for this property and the lot line for the adjacent residential development. He stated that it was not intended to imply that there would be a 25 feet separation between the fuel pumps and the residential development.

Mr. Pressman stated that although there were 348 notices sent out, only two residents appeared at the Planning and Zoning Board meeting. He advised that the petitioner had worked very hard with the neighbors to address their concerns. Mr. Pressman clarified that the proposed pumps would be placed 163.83 feet from the residential property line.

Councilmember Crowley stated that the drainage proposal did not meet today's standards. Mr. Pressman stated that it was his understanding that the drainage was up to standards.

Mr. Kiar closed the public hearing.

Mayor Truex stated that he would like to see a letter from the homeowner's association verifying their support of the variances. He added that he agreed with the recommendations of the Planning and Zoning Board.

Vice-Mayor Starkey made a motion, seconded by Mayor Truex, to approve variance 1, 3 and 4 subject to the Planning and Zoning Board's recommendations. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - no; Councilmember Hubert - no; Councilmember Paul - yes. (Motion carried 3-2)

Vice-Mayor Starkey made a motion, seconded by Councilmember Crowley, to deny variance 2 and wanted to have a letter from the homeowner's association indicating whether or not they supported the project. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

- 7.11. **VARIANCE** - V 5-1-03, Khavanin/Zarbafi, 5150 South Pine Island Road (R-3) (to reduce the following 12,000 square foot lot area to 10,500 square feet; 100 foot lot frontage to 75 feet; and 15 foot side yards to 10 feet. This reduction would allow the subject property to be developed with 28 single family homes.) *Planning and Zoning Board recommended approval*

Mr. Kiar read the rules of evidence and swore in the witnesses. Mr. Leiva read the planning report.

Councilmember Paul asked for an explanation regarding the strike-outs and what "the hardship" referred to. Mr. Leiva explained the findings of fact.

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Councilmember Crowley asked Mr. Leiva if there had been a similar variance request on the parcel to the north of this project. Mr. Leiva indicated in the affirmative.

Gus Khavanin, representing the petitioner, indicated that the similar site variance was approved last year.

Mr. Kiar opened the public hearing portion of the meeting. As no one spoke, the public hearing was closed.

Councilmember Crowley disclosed that he spoke with Mr. Khavanin.

Mayor Truex indicated that he voted against the similar variance and he did not agree with staff's findings on this project. He stated that he would only vote in favor of this project because of less density.

Vice-Mayor Starkey asked about the cul-de-sac radius and whether it would allow the ability for fire truck access. Mr. Peters stated that his department had reviewed this and felt that it met the standard requirements, but that he would clarify it.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 5-0)

Items to be tabled

7.12. DUE TO A LACK OF QUORUM AT THE LOCAL PLANNING AGENCY MEETING, STAFF IS REQUESTING A TABLING TO OCTOBER 1, 2003

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA REPEALING INTERIM REGULATIONS ORDINANCE NO. 2002-27 WIRELESS COMMUNICATIONS FACILITIES, PROVIDING FOR A HIERARCHY OF PREFERRED SITING ALTERNATIVES, CONTAINING PROVISIONS FOR EVALUATIONS OF SITING APPLICATIONS AND ADDING ARTICLE XV, ENTITLED "WIRELESS COMMUNICATIONS FACILITIES" PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (tabled from September 3, 2003)

This item was tabled earlier in the meeting.

7.13. DUE TO A LACK OF QUORUM AT THE LOCAL PLANNING AGENCY MEETING, STAFF IS REQUESTING A TABLING TO OCTOBER 1, 2003

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING APPLICATION LA(TXT) 03-08A AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE ELEMENT TO DELETE THE "EMPLOYMENT CENTER" LAND USE CATEGORY AND TO ESTABLISH EMPLOYMENT CENTER LAND USES TO INCLUDE AN "EMPLOYMENT CENTER-LOW" LAND USE CATEGORY AND AN "EMPLOYMENT CENTER-HIGH" LAND USE CATEGORY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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This item was tabled earlier in the meeting.

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- 7.14. **DUE TO A LACK OF QUORUM AT THE LOCAL PLANNING AGENCY MEETING, STAFF IS REQUESTING A TABLING TO OCTOBER 1, 2003**
AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING APPLICATION LA 03-06, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "RESIDENTIAL 1 DU/AC" TO "UTILITY"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (LA 03-06, Florida Power and Light/ Archdioceses of Miami, 1401 Hiatus Road)

This item was tabled earlier in the meeting.

- 7.15. **DUE TO A LACK OF QUORUM AT THE LOCAL PLANNING AGENCY MEETING, STAFF IS REQUESTING A TABLING TO OCTOBER 1, 2003**
AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR TRANSMITTAL TO THE DEPARTMENT OF COMMUNITY AFFAIRS APPLICATION LA 03-07, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE PLAN MAP DESIGNATION OF CERTAIN LANDS FROM "RESIDENTIAL 1 DU/AC" TO "EMPLOYMENT CENTER - LOW"; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (LA 03-07, Industrial Developments International, Inc/Wilson Road Company, Inc., Herzig and North, 5800 SW 59 Avenue)

This item was tabled earlier in the meeting.

- 7.16. **DUE TO A LACK OF QUORUM AT THE PLANNING AND ZONING BOARD MEETING, STAFF IS REQUESTING A TABLING TO OCTOBER 1, 2003**
ZB 6-1-03, Florida Power & Light Company/The Archdioceses of Miami, 1401 Hiatus Road

This item was tabled earlier in the meeting.

- 7.17. **STAFF REQUESTING A TABLING TO OCTOBER 1, 2003**
FX 3-1-03, Centerline Homes/McHugh, 7550 Griffin Road (Griffin Corridor West Gateway Zone)

This item was tabled earlier in the meeting.

- 7.18. **STAFF REQUESTING A TABLING TO DECEMBER 17, 2003**
AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, ADOPTING APPLICATION LA(TXT) 03-08B AMENDING THE TEXT OF THE TOWN OF DAVIE COMPREHENSIVE PLAN BY AMENDING THE FUTURE LAND USE ELEMENT TO ESTABLISH A "LOCAL ACTIVITY CENTER" LAND USE CATEGORY; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

This item was tabled earlier in the meeting.

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8. APPOINTMENTS

- 8.1. Child Safety Board (one exclusive appointment - Vice-Mayor Starkey and Mayor Truex; term expires April 2004) (whenever possible, members shall have interest and expertise in law enforcement, elementary school instruction, child psychology, pediatric medicine, parenthood and grandparenthood)

Mayor Truex and Vice-Mayor Starkey deferred their appointments.

- 8.2. Community Redevelopment Agency (one exclusive appointment - Councilmember Crowley; term expires April 2004) (member shall either reside or engage in business within the jurisdiction of the Town)

Councilmember Crowley appointed Cindy Lou Gaines.

- 8.3. Open Space Advisory Committee (one exclusive appointment - Vice-Mayor Starkey; term expires April 2004)

Vice-Mayor Starkey deferred her appointment.

- 8.4. Planning and Zoning Board/Local Planning Agency (one exclusive appointment - Mayor Truex; term expires May 25, 2004) (must be a resident and qualified voter; nominations require approval by Council)

Mayor Truex made a motion, seconded by Vice-Mayor Starkey, to appoint John Stevens. In a voice vote, all voted in favor. (Motion carried 5-0)

- 8.5. Senior Citizen Advisory Board (one exclusive appointment - Mayor Truex; term expires April 2004) (members shall be a minimum 60 years of age)

Mayor Truex deferred his appointment.

- 8.6. Water and Environmental Advisory Board (two exclusive appointments - Mayor Truex; term expires April 2004) (insofar as possible, one member of the board shall be a licensed engineer)

Mayor Truex deferred his appointments.

9. OLD BUSINESS

- 9.1. Computer Usage - Mayor Truex

Council gave direction to place this item on the November 5, 2003 agenda.

- 9.2. **AMENDED AGREEMENT - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING AN ANNEXATION AGREEMENT BETWEEN THE TOWN OF DAVIE AND JOLMY ENTERPRISES, INC. AND PROVIDING AN EFFECTIVE DATE.**

Earlier in the meeting, Councilmember Hubert made a motion, seconded by Councilmember Crowley, to make Jolmy part of the Town and allow them to have their signs at the height of 65 feet.

Mr. Burke suggested that Council provide him direction with respect to amending the agreement, particularly with respect to the sign heights on all three billboards. Councilmember

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Paul stated that she would be in favor of Mr. Burke meeting with Mr. Moody to make the proper corrections and bring it back before Council.

Councilmembers Crowley and Hubert withdrew their motion.

Mayor Truex felt that both issues should be addressed at the same time.

Councilmember Paul felt that each issue was separate in that one was a change to the annexation agreement while the other was a change to the Code. Vice-Mayor Starkey disagreed and stated that if the Code was amended, it would have to include the addition of the three billboards. She stated that if the agreement with Jolmy was going to be modified, it should be modified according to Code and the Special Counsel's advice. She stated she would not be in favor unless it was all within a comprehensive ordinance.

Mayor Truex indicated that he would like to see Mr. Burke's suggestions at the same time.

Councilmember Paul made a motion, seconded by Councilmember Hubert, to table to October 1, 2003. In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Starkey - yes; Councilmember Crowley - yes; Councilmember Hubert - yes; Councilmember Paul - yes. (Motion carried 4-1).

9.3. Roadway Blight - Corridor Study for Major Roadways

Councilmember Paul spoke regarding the roadside balloons, flags and landscaping. She requested a corridor study be done to see what could be done to improve the roadways for the aesthetic aspect so that the Town did not turn into a "carnival atmosphere." Vice-Mayor Starkey inquired as to what funds would be needed to provide a corridor study. Councilmember Paul stated that she was merely looking to make note of the roadways, particularly along State Road 7 as well as the east/west roadways, and try to clean up the visual aspect of the Town. Vice-Mayor Starkey agreed and stated that the Code specifically required that the areas be maintained.

Mr. Willi indicated that staff could return to Council with a bullet list of discussion points that should be addressed. He advised that there were Code issues that needed to be addressed regarding balloons, signage, temporary use permits and grand opening signs. Mr. Willi felt that a corridor study should be done and that it could take a minimum of six months to do properly. He stated that staff would be able to provide something to Council by either the second meeting in December or first meeting in January. Council indicated their acceptance.

10. NEW BUSINESS

10.1. Site Plan Notification Process

Mr. Kutney distributed research that contained surveys of 22 municipalities in Broward and 11 in Palm Beach County to benchmark their site plan notification process.

Councilmember Paul felt that the reason this issue was raised was because often times the applicant was told to go back and meet with the residents. She felt that placing a sign on the property and running an ad would be a good start. Mayor Truex felt that the ad was a waste of money, but agreed with the idea of placing a sign on the property.

Vice-Mayor Starkey agreed with the idea of posting a sign on the property, but that they should also put the burden back on the applicant to meet with the surrounding community to

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gain consensus or recommendations. Mr. Kutney indicated that an option would be to have the applicant file an affidavit indicating that they had met with the residents. Councilmember Paul agreed with the signage and working toward a Code adjustment.

Mr. Kutney clarified Council's suggestions regarding placement of signs and adding language to the requirements regarding an affidavit to meet with residents within 300 feet.

Vice-Mayor Starkey recommended a temporary trial period. Mayor Truex agreed.

10.2. Community Trust - Vice-Mayor Starkey

Vice-Mayor Starkey stated that she wanted to work with Mr. Willi and Assistant Town Administrator Ken Cohen on bringing forth a formal document with their recommendations on this issue at a future meeting.

10.3. Broadview Annexation - Councilmember Paul

Councilmember Paul requested Council's support to have staff move forward in pursuing methods to facilitate the annexation of Broadview Park.

Vice-Mayor Starkey stated that in a meeting with the Florida League of Cities, the issue of Broadview Park's annexation was discussed. She felt that annexing this area would place the Town in a favorable light with annexation legislation and asked Mr. Parke to copy Council and staff on documents received.

Mayor Truex was in favor of receiving more information on this area, but stated that he was not certain that he would be in favor of annexation.

10.4. Church Locations/Storefronts and Shopping Centers

Mayor Truex spoke about the churches requesting to move their sites and was told by staff that it was not permitted by Code. He proposed that the Code be amended to have a maximum square footage for a shopping center church as well as a maximum percentage of a shopping center. Mayor Truex requested that Mr. Kiar draft an ordinance to be placed on the agenda for first reading. He stated that there should be no reason to discriminate against any religious facility within a shopping center and the current situation should be rectified.

Vice-Mayor Starkey was in favor of Mayor Truex's suggestion, but would like to see this particular church sign a developer's agreement indicating that they would not expand further in the current shopping center. Mayor Truex indicated that it would be stated in the ordinance that they would not be permitted to go above a certain number of square feet. Mr. Kiar indicated that he would prepare a draft ordinance to this effect.

Pastor Jay Carrero, 5619 S. University Drive, indicated that they had a piece of property that they planned to develop and that this request was only temporary. Councilmember Crowley questioned where the property was located that Pastor Carrero referred to. Pastor Carrero stated that it was the last CF zoning off 75th in Davie.

Mayor Truex stated that he would work with Mr. Kiar on developing an ordinance.

**10.5 A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BID
R-2003-242 AWARDED BY THE STATE OF FLORIDA, BID NO. 725-000-03-1 FOR
CELLULAR EQUIPMENT AND SERVICES.**

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Mr. Willi advised that the resolution was an agreement with Nextel to upgrade the 900 MHz radios to Nextel 2-way radios and that the agreement would provide phones to the Town for 99¢ per phone. He stated that this was before Council now because there was a price change scheduled to go into effect October 1st and the agreement would lock in the 99¢ rate.

Mayor Truex asked if this referred to public safety. Mr. Willi indicated that this would be for park rangers, code enforcement, maintenance in Parks and Recreation and Public Works.

Vice-Mayor Starkey stated that this would enhance the Town's overall communication efforts and stated that over 70% of government agencies currently used Nextel Communications. She indicated that the new Nextel radios would allow text messaging and suggested that, if approved, the personnel using the new Nextel system be trained to use that feature.

Mayor Truex asked if Nextel was the sole source or if the radios could be provided through a resale system. Mr. Willi stated that that issue had been researched and staff saw no benefit in dealing with a reseller.

Councilmember Paul made a motion, seconded by Councilmember Hubert, to approve. In a voice vote, all voted in favor with Mayor Truex dissenting. (Motion carried 4-1)

**11. MAYOR/COUNCILMEMBER'S COMMENTS
COUNCILMEMBER CROWLEY**

ARROWHEAD CONDOMINIUM. Councilmember Crowley spoke about the tragic fires and expressed his pride in the Fire Department as well as the charitable organizations helping the residents. He asked that the Town do everything to expedite getting the residents back in their homes.

COUNCILMEMBER PAUL

MAYORAL PROCLAMATION. Councilmember Paul thanked Mayor Truex for the mayoral proclamation presented to Marguerite Olsen.

SOUNDWALLS. Councilmember Paul stated that she had asked Mr. Willi to address a letter and prepare a resolution to present to the Metropolitan Planning Organization regarding the soundwalls.

WESTERN HIGH SCHOOL. Councilmember Paul commended Western High School for the memorial presentation on September 11th.

HOBBY FARM. Councilmember Paul commended Mr. Kiar on the Hobby Farm ordinance and requested this be brought before Council at the second meeting in November.

INTERNET SAFETY. Councilmember Paul reminded Council that the Child Safety Board and the Police Department were giving a seminar on internet safety and internet predators at Indian Ridge Middle School on September 22, 2003.

12. TOWN ADMINISTRATOR'S COMMENTS

LEGISLATIVE GOAL SETTING SESSION. Mr. Willi discussed setting the session sooner than scheduled and recommended a session be held within the first three weeks of October. He indicated that this would help by having a set list of goals prior to the legislative session.

EVALUATION AND APPRAISAL REPORT MEETINGS. Mr. Willi urged Council to attend these meetings beginning October 13th. Vice-Mayor Starkey indicated that the Broward

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Legislative Committee would be bringing up these items at their meeting and she would provide a report to Council.

13. TOWN ATTORNEY'S COMMENTS

ROAD ASSESSMENTS. Mr.. Kiar indicated that staff had been pursuing special road assessment liens and spoke of the receipt of settlement from Mr. Danielle.

14. ADJOURNMENT

There being no further business to discuss and no objections, the meeting adjourned at 11:34 p.m., September 17, 2003.

Approved: _____

Mayor/Councilmember

Town Clerk

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